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California's protection and advocacy system

January 7, 2014

California Commission on Disability Access
721 Capitol Mall, Suite 250
Sacramento, California 95814

**Re: January 8, 2014 CCDA Agenda Item 6 - San Francisco
Parking Policy**

Dear CCDA Commissioners:

Disability Rights California is a non-profit advocacy organization mandated to advance the human and legal rights of people with disabilities. We are writing to provide input into your January 8, 2014 Agenda Item 6. Specifically we are commenting on state legislative ideas contained on page 16 of the San Francisco Municipal Transportation Agency and the Mayor's Office on Disability Accessible Parking Policy Advisory Committee Recommendation Report, updated 12/17/13.

The Nature of the Problem

We are concerned that proposed solutions are not based on solid information about the nature of the problem. For example, as access improves and people with disabilities are more fully integrated into their communities - more people with disabilities get out into society and have jobs. Thus it follows that more people will have disabled parking placards and use them. While it is asserted that abuse of placards is reduced in jurisdictions putting time limits on and requiring payment for metered spaces – all that is known for certain is that placard use goes down. It may well be that people with disabilities stop going to the jurisdiction rather than that abuse is diminished.

Costly and Confusing Solutions

The proposed legislative changes give deference to local municipalities to decide if they will require payment or time limits at meters. Most likely there will be different rules across California. How will a person with a

disability know which rule applies where? This will lead to confusion and inequity throughout the state and be costly and burdensome to implement.

Solutions Should Not Penalize People with Disabilities

Requiring people to pay the meter is of concern since people with disabilities generally have lower incomes than people without disabilities. Not all people with disabilities can reach meters or kiosks, even if they are within required reach ranges, thus necessitating giving money or credit cards to strangers to feed meters. Limiting time at meters will impact people with disabilities who need more time to get in and out of vehicles, travel to their destination or require more time at a destination because of a disability (for example, more time needed to dress and undress when trying on clothes or going to a medical appointment). Requiring people with disabilities to have medical certifications to renew placards, when their need for a placard is not changing, will be burdensome and costly on all involved, including the state Department of Motor Vehicles. Many people with disabilities have enough medical appointments; they should not have to go to another one to get their placard renewed.

Paying Meters and Time Limits May Violate Federal Law

Requiring people with disabilities to pay time limited meters may violate Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. §§ 12131, *et seq.* Title II of the ADA says, in pertinent part:

no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

42 U.S.C. § 12132. The regulations under Title III of the ADA, specifically 28 C.F.R. § 35.130(b)(1)(ii), state:

A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability . . . [a]fford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others.

There are many people with placards who are physically unable to put money in meters. Those people who cannot use meters would be prevented from benefitting from street metered parking on the basis of their disabilities, in violation of Title II of the ADA and its implementing regulations.

One of the reasons for the law allowing people with placards to park at meters without paying is because it takes many people with mobility disabilities longer to get around and return to put more money in a meter, assuming the meter can be reached. Further, it allows people who cannot walk or push their wheelchairs long distances to park close enough to reach their destination – particularly when there is not a blue zone nearby or the blue zone is occupied.

People with placards can currently park in green zones (time limited) for as long as they want. The same argument applies. As explained above, it takes many people with disabilities longer to move around and get things done. Many have doctors' appointments that can take anywhere from one hour to all day. At times a green zone is the closest option available, placing time limits on the green zones will effectively deny a person with a disability the opportunity to park.

Summary of Current State Law

A person qualifies for a placard if they have impaired mobility due to having lost use of one or more lower extremities, or both hands, or have a diagnosed disease that substantially impairs or interferes with mobility, or one who is severely disabled to be unable to move without the aid of an assistive device. A person may also qualify if they have specific, documented visual problems, including lower-vision or partial-sightedness. Cal. Vehicle Code § 22511.55(b)(1). These disabilities must be certified by a licensed physician, surgeon, chiropractor, optometrist, physician assistant, nurse practitioner, or certified nurse midwife that has knowledge of the disease and/or disability. Cal. Vehicle Code § 22511.55(b)(2).

Under Cal. Vehicle Code § 22511.5(a), a person with a placard may park:

- In parking spaces with the International Symbol of Access (wheelchair symbol).
- Next to a blue curb authorized for persons with disabilities to park.

CCDA Letter Regarding Disabled Parking Placards

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- Next to a green curb (green curbs indicate limited time parking) with no time limit.
- In an on-street metered parking space at no charge.
- In an area that indicates it requires a resident or merchant permit.

It is illegal for individuals who do not qualify for a placard to use one unless they are transporting the person who qualifies for the placard. A person who misuses a placard is subject to fines of up to \$1,000 and six months in jail. Cal. Vehicle Code § 4461(b). In addition, the placard will be confiscated and revoked. Cal. Vehicle Code § 22511.6(a).

Thank you for your consideration of this important matter. Please let me know if I can provide more information.

Very truly yours,

A handwritten signature in black ink, appearing to read "Margaret Johnson", with a stylized flourish at the end.

Margaret Johnson
Advocacy Director